

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 7  
:   
B&M HOSPITALITY LLC :   
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:   
DEBTOR : BKY. NO. 17-15092-amc  
: HEARING DATE: November 22, 2017  
: TIME: 11:00 a.m.  
: LOCATION: Courtroom No. 5,  
: U.S. Bankruptcy Court,  
: Robert N.C. Nix Building  
: 900 Market St., 2<sup>nd</sup> Floor  
: Philadelphia, PA 19107

**MOTION OF TRUSTEE TO SELL DEBTOR'S ASSET  
PURSUANT TO 11 U.S.C. SECTION 363 FREE AND CLEAR  
OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

The Trustee herein, Terry P. Dershaw, by and through his counsel, Fox Rothschild LLP, respectfully moves for the entry of an Order allowing the Trustee to sell property of the Estate pursuant to §363 of the Bankruptcy Code and in support thereof respectfully represents:

1. Movant is the duly appointed Chapter 7 Trustee in the above-captioned proceeding, has qualified and is so acting.
2. The Trustee is filing this Motion to sell the Debtor's retail Liquor License No. R-1140, "As-Is" ("License").
3. The Trustee has entered into an Agreement to sell the License to Veronica Lopez or her corporate nominee/assignee ("Buyer"). Attached hereto as Exhibit "A" is a true and correct copy of the Agreement.
4. Pursuant to the Agreement, the Trustee is selling the License for the purchase price of \$175,000.00. The Trustee is in receipt of a deposit of \$17,500.00. The balance of \$157,500.00 shall be paid at the time of settlement, after entry of a Court Order approving the sale.

5. The Trustee intends to sell the License free and clear of liens and encumbrances, with any such liens and encumbrances to attach to the proceeds of the sale. Upon information and belief, there are no liens on the License.

6. The Trustee believes that the sale of the License is in the best interest of the Bankruptcy Estate and the creditors.

7. By this Motion, the Trustee seeks approval of the sale of the License to the Buyer or her corporate nominee/assignee pursuant to the terms of the Agreement and the requirements of 11 U.S.C. § 363.

8. Section 363(b) of the Bankruptcy Code provides that a Trustee “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” To approve a use, sale or lease, other than in the ordinary course of business, the Court must find “some articulated business justification.” See *In re Martin (Myers v. Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F. 2d 143 (3d Cir. 1986 (requiring good faith purchasing); *In re Delaware and Hudson Rv. Co.*, 124 B.R. 169 (D. Del. 1991) (concluding that requirements for sale outside ordinary course of business included sound business purpose, adequate and reasonable notice, fair and reasonable price, and good faith purchaser).

9. Furthermore, Section 363(f) of the Bankruptcy Code permits the Trustee to sell assets free and clear of all liens, claims, interests and encumbrances, with any such liens, claims, interests and encumbrances attaching to the proceeds of the sale. 11 U.S.C. § 363(f).

10. The Trustee also requests that the Court waive the requirements under Bankruptcy Rule 6004(h) so that any sale of the License approved by the Court may close immediately rather than being subject to the fourteen (14) day waiting period outlined in Rule 6004(g).

11. As always, the Trustee will seek higher and better offers.

WHEREFORE, the Trustee respectfully moves for the entry of an Order allowing the Trustee to sell the Debtor's License free and clear of all liens, claims and encumbrances pursuant to Section 363 of the Bankruptcy Code, and for such other and further relief as is just.

FOX ROTHSCHILD LLP

/s/ Edward J. DiDonato

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Counsel to Trustee